

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

No. CV 16-00730 RB/KK

No. CR 05-00217 RB

ROBERT SEDILLO GUTIERREZ,

Defendant/Movant.


**ORDER OF DISMISSAL OF MOTION TO CORRECT
SENTENCE PURSUANT TO 28 U.S.C. § 2255**

THIS MATTER is before the Court under Rule 4 of the Rules Governing Section 2255 Proceedings on the Motion to Correct Sentence Under 28 U.S.C. § 2255 filed by Defendant/Movant, Robert Sedillo Gutierrez. (CV Doc. 1; CR Doc. 233). In his § 2255 Motion, Movant Gutierrez claims that he improperly received an enhanced sentence as a career offender under the United States Sentencing Guidelines because the residual clause of U.S.S.G. § 4B1.2 is unconstitutionally vague under the reasoning in *Johnson v. United States*, 576 U.S. ___, 135 S.Ct. 2551 (2015). (CV Doc 1; CR Doc. 233).

In *Beckles v. United States*, 580 U.S. ___, No. 15-8544, slip op (March 6, 2017), the Supreme Court held that the United States Sentencing Guidelines are not subject to a void-for-vagueness challenge. 580 U.S. ___, No. 15-8544, slip op at 5. Pursuant to the Court's Order, the Parties have filed a Statement that the ruling in *Beckles* is dispositive of all issues raised in Gutierrez's § 2255 Motion and Supplemental Motion and that his § 2255 proceeding should be

dismissed. (CV Doc. 9; CR Doc. 241). Gutierrez is not entitled to relief and his § 2255 Motion and Supplemental Motion will be dismissed under Rule 4.

IT IS ORDERED that the Motion to Correct Sentence Under 28 U.S.C. § 2255 filed by Defendant/Movant, Robert Sedillo Gutierrez (CV Doc. 1; CR Doc. 233) is **DISMISSED** under Rule 4 of the Rules Governing Section 2255 Proceedings.


UNITED STATES DISTRICT JUDGE